

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his )  
capacity as ATTORNEY GENERAL )  
OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT C. MILES TOLBERT, )  
in his capacity as the )  
TRUSTEE FOR NATURAL RESOURCES )  
FOR THE STATE OF OKLAHOMA, )

Plaintiff, )

vs. ) 4:05-CV-00329-TCK-SAJ

TYSON FOODS, INC., et al, )

Defendants. )

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VOLUME I OF THE VIDEOTAPED  
30(b)(6) DEPOSITION OF TEENA GUNTER, produced  
as a witness on behalf of the Defendants in the  
above styled and numbered cause, taken on the 27th  
day of August, 2008, in the City of Oklahoma City,  
County of Oklahoma, State of Oklahoma, before me,  
Lisa A. Steinmeyer, a Certified Shorthand Reporter,  
duly certified under and by virtue of the laws of  
the State of Oklahoma.

1                                   TEENA GUNTER  
2       having first been duly sworn to testify the truth,  
3       the whole truth and nothing but the truth, testified  
4       as follows:

5                                   DIRECT EXAMINATION

6       BY MR. HIXON:

7       Q       Can you state your name for the Record,  
8       please?

9       A       It's Teena Gale Gunter.

10      Q       And, Miss Gunter, what's your current                                   09:20AM  
11      position?

12      A       I'm a deputy general counsel at the Oklahoma  
13      Department of Agriculture, Food & Forestry.

14      Q       How long have you been in that position?

15      A       In that position, approximately probably four                                   09:20AM  
16      years.

17      Q       Okay, and prior to that position, what  
18      position did you hold?

19      A       I was a staff attorney with the Oklahoma  
20      Department of Agriculture, Food & Forestry in the                                   09:21AM  
21      agricultural environmental management services  
22      division.

23      Q       Okay, and how long did you hold that position?

24      A       I don't remember exactly when I switched to  
25      that position. I held another position before that,                                   09:21AM

1 litter application rates for use in the TMDL?

2 **A** Assumptions?

3 **Q** Or data.

4 **A** We provided our litter applicator reports that  
5 we had at that time.

11:39AM

6 **Q** Okay. What information would be contained in  
7 the litter applicator reports?

8 **A** Each applicator provides a report annually  
9 that contains where they got the litter from and  
10 where they spread it, soil test analysis, poultry  
11 litter analysis, other details of the specific  
12 application event.

11:39AM

13 **Q** And do you know when that information was  
14 provided to DEQ?

15 **A** I don't recall.

11:39AM

16 **Q** When was the litter or -- yeah, the Litter  
17 Applicator Act enacted?

18 **A** July 1st, 1997.

19 **Q** So it would have been at least since July 1st,  
20 1997 that that information was provided to DEQ?

11:40AM

21 **A** Would have been after that.

22 **Q** Okay. Do you know if that was just a one-time  
23 production to DEQ or whether that's been an ongoing  
24 process?

25 **A** I know I was involved in it one time.

11:40AM

1 Q Can you tell me what the ODAFF's water quality  
2 standards implementation plan is?

3 A It's a document prepared by or rules actually  
4 prepared by the department in response to statutory  
5 requirement that required all state environmental  
6 agencies to prepare a water quality standards  
7 implementation plan.

11:47AM

8 Q Okay. These rules, who is the regulated  
9 community that would be subject to those rules; who  
10 do those rules apply to?

11:47AM

11 A Those rules apply to anyone that's expected to  
12 comply with water quality standards. It's a  
13 knowledge based -- it's a summary of everything that  
14 might potentially apply to them.

15 Q Okay. So would it apply -- is there, I mean,  
16 a body of the public that it would apply to or is it  
17 more -- it's something that ODAFF uses as a guide in  
18 regulating?

11:47AM

19 A It's a guidance document, probably better  
20 characterized as, but it is promulgated by a rule  
21 because the statute requires that.

11:48AM

22 Q Okay, but it's not a body of regulation?

23 A Unto itself.

24 Q Unto itself, but Poultry Farmer Jones goes and  
25 says what does the Water Quality Standard

11:48AM

1 Implementation Act require of me?

2 **A** Right.

3 **Q** It's something that would apply to ODAFF?

4 **A** Yes.

5 **Q** That it would use in its regulation of water 11:48AM  
6 quality standards?

7 **A** Yes.

8 **Q** What regulations are there that apply would  
9 govern potentially the land application of poultry  
10 litter? 11:49AM

11 **A** Regulations?

12 **Q** Uh-huh, regulations or statutory provisions.

13 MR. LENNINGTON: Are you speaking -- I  
14 don't understand the question. Object to the form.  
15 State of Oklahoma or federal law or -- 11:49AM

16 MR. HIXON: State of Oklahoma.

17 MR. LENNINGTON: Okay.

18 **A** Oklahoma statutes contain the Concentrated  
19 Animal Feeding Operations Act that contains some  
20 requirements. 11:49AM

21 **Q** Okay.

22 **A** Poultry -- Registered Poultry Feeding  
23 Operations Act contains some requirements.

24 **Q** Okay.

25 **A** Rules pursuant to both of those contain 11:49AM

1 requirements.

2 Q Okay. What about the Applicator's Act?

3 A The applicators -- the Certified Applicator's  
4 Act and Rules.

5 Q Is there any other state statutory provisions 11:50AM  
6 or any state rules that apply to land application of  
7 litter?

8 A There are general statutes regarding no  
9 pollution to waters of the state, those sorts of  
10 things, that we have a title. In Title 2 we have a 11:50AM  
11 18.1 provision, 2-18.1 that refers to any pollution  
12 of air, land and waters is prohibited.

13 Q Is that in Title 2 you said?

14 A Yes.

15 Q Okay. Is there anything else in Oklahoma law 11:50AM  
16 that would apply to the land application?

17 A I don't recall anything else related to  
18 statute or rules.

19 Q Okay. Is there any federal law that's  
20 enforced by ODAFF that would apply to the land 11:51AM  
21 application of litter?

22 A We don't enforce federal law.

23 Q Okay. Is there anything similar to your  
24 arrangement with the EPA on the NPDS permits?

25 A We perform inspections on behalf of EPA for 11:51AM

1 in Mr. Parrish's deposition subject to the  
2 objection?

3 **A** I can't really -- I mean, I remember the  
4 deposition, but I don't remember specific instances.  
5 I didn't read it in the last few weeks by any means.

03:28PM

6 **Q** Okay. When did you read it?

7 **A** After he did it.

8 **Q** Okay. Under the Oklahoma Registered Poultry  
9 Feeding Operations Act, what's required or I guess  
10 who -- let me use my regulated community again. Who  
11 is the regulated community under the Oklahoma  
12 Registered Poultry Feeding Operations Act; who does  
13 it apply to?

03:28PM

14 **A** It applies to poultry feeding operations  
15 within the state of Oklahoma that are defined in the  
16 statute.

03:29PM

17 **Q** Okay, and who's regulated; the poultry feeding  
18 operation?

19 **A** The facility.

20 **Q** Who is the person that's regulated or entity  
21 that's regulated?

03:29PM

22 **A** The registration requirement is for any person  
23 to construct or operate a new poultry feeding  
24 operation without having first registered, and it  
25 also states that the owner or operator -- and I'm

03:29PM

1 reading from 10-9.3 in Title 2. The owner or  
2 operator of a poultry operation not classified --  
3 well, wait -- may register, may elect to come under  
4 them and anyone -- yeah. It's going to be the owner  
5 or operator typically.

03:30PM

6 Q Okay. Of the poultry facility?

7 A Yes.

8 Q Okay. Is there anything in this Act that  
9 applies to poultry integrators with the exception of  
10 a poultry integrator actually owning or operating a  
11 poultry facility?

03:30PM

12 A Yes.

13 Q Okay, and what is that?

14 A Specifically they're required to provide us  
15 with a name and address of the integrator whose  
16 poultry will be raised by that operation.

03:30PM

17 Q Okay. The integrator has to provide you that  
18 information?

19 A No. The individual has to provide that  
20 information.

03:30PM

21 Q Maybe my question wasn't clear. I was asking  
22 whether any of this applies to the integrator.

23 MR. LENNINGTON: Objection to the word  
24 this.

25 MR. HIXON: This Act, this Exhibit 8A.

03:31PM



1 MR. LENNINGTON: You have two Acts here in  
2 Exhibit 8A.

3 MR. HIXON: Do I have two?

4 MR. LENNINGTON: Yeah.

5 MR. HIXON: Registered Poultry Feeding Act. 03:31PM  
6 I think the Waste Transfer and Waste Applicator Act  
7 are also included in this.

8 A Yes.

9 Q The Registered Poultry Feeding Operation Act,  
10 is there anything in here that regulates poultry 03:31PM  
11 integrators who are not owners or operators?

12 A Are you talking about regulating or  
13 requirements for them?

14 Q What's the difference between a regulating  
15 them or requirements? 03:31PM

16 A Requirements are things that the integrator is  
17 asked to do under this -- under this.

18 Q Okay. What's the integrator asked to do under  
19 this?

20 A I'm trying to find the provision. It's in my 03:31PM  
21 head but I just haven't come across yet. Here it  
22 is. 10-9.5, it says regarding the section on  
23 registration, education, et cetera, Subsection G,  
24 which is at the very end of that section, no  
25 integrator shall enter into any contract with an 03:32PM

1 operator of a poultry feeding operation who is not  
2 in compliance with the requirements of Subsection F  
3 of this section.

4 Q Okay. What is Subsection F?

5 A Which is the education materials. All 03:32PM  
6 operators -- that's the previous section. All  
7 operators of feeding operations shall attend  
8 educational sources on poultry waste handling.

9 Q Okay. I'm sorry. Go ahead.

10 A The nine-hour and three-hour rule. 03:32PM

11 Q Okay. Is there anything else in here that's  
12 required of integrators?

13 MR. LENNINGTON: Objection, vague.

14 A There's one more section I need to check. No,  
15 it's not a requirement of the integrators that I was 03:33PM  
16 looking at.

17 Q Okay. Is this the only -- this 10-9.5G, is  
18 this the only requirement of an integrator in this  
19 Act?

20 A Are we talking about the Senate Bill 1170 as a 03:34PM  
21 whole or are we talking about the Oklahoma  
22 Registered Poultry Feeding Operations Act as it  
23 exists today?

24 Q What was in Senate Bill 1170 other than the  
25 Oklahoma Registered Feeding Operation Act? 03:34PM

1     **A**       There was an educational provision that  
2     required -- yes. It's 10-9.22 regarding funding of  
3     the educational programs and the initials days, and  
4     I'm looking at A2, about the second sentence down,  
5     to ensure that the educational programs are fully                     03:34PM  
6     and adequately funded, integrators doing business in  
7     the state shall contract with the Oklahoma State  
8     University through the Oklahoma Cooperative  
9     Extension Service to provide educational training  
10    courses and certification of operators of poultry                     03:35PM  
11    feeding operations and land applicators of poultry  
12    waste.

13    **Q**       Okay.

14    **A**       That's still the status of the law; however,  
15    that was only for three subsequent fiscal years from                     03:35PM  
16    the passage in 1998.

17    **Q**       Okay. So the legislature could have required  
18    certain acts of the integrators in Senate Bill 1170?

19               MR. LENNINGTON: Objection, vague.

20    **A**       Legislature can do whatever they want to do.                     03:35PM

21    **Q**       Okay, and these two instances that you pointed  
22    out, are they only to integrator-related  
23    requirements?

24               MR. LENNINGTON: Object to the form.

25    **A**       That I can recall and find perusing through                     03:35PM

1 here, yes.

2 Q Okay. Has the Register Poultry Operations  
3 Feeding Act, has that been amended at all since it  
4 was enacted or went into effect in 1998?

5 A I know of at least once it was amended -- 03:36PM  
6 twice. Excuse me.

7 Q Do you know the substance of those amendments  
8 were?

9 A In 2002 it was a new provision added regarding  
10 new facilities located within one mile upstream of 03:37PM  
11 the Pensacola Project boundary pursuant to the Grand  
12 River Dam and FEMA.

13 Q Okay, and that's related to Grand Lake?

14 A Yes.

15 Q Okay, and what was the other amendment that 03:37PM  
16 you're aware of?

17 A Here it is. In 2005 there was amendments to  
18 Section 10-9.5. The major change there was  
19 regarding the educational requirements, and it  
20 essentially changed the -- it changed the year that 03:38PM  
21 we counted education on from a fiscal year to a  
22 calendar year.

23 Q Okay. Is that the only change?

24 A I can look here. I printed all the historical  
25 pages out. To the Registered Poultry Feeding 03:38PM